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November 8, 1991

BY HAND

The Honorable Mario Aguero
Chairman
Copyright Royalty Tribunal
1825 Connecticut Avenue, N.W.
Suite 918
Washington, D.C. 20036

Re: 1989 Cable Royalty Distribution
Proceeding; Docket No. 91-1-89CD

Dear Chairman Aguero:

During the direct case evidentiary hearings, the Joint Sports Claimants ("JSC") promised to provide for the record certain information requested by the Tribunal.

First, you had posed several questions concerning the nature and number of the NBA games broadcast over superstation WTBS in 1989. Tr. 1182, 1758-59. Attached as Sports Exhibit 37A is a listing of these games.

Second, you had asked for the number of professional sports telecasts broadcast by each of the satellite-delivered superstations in 1989. Tr. 880-81. The table attached as Sports Exhibit 37B identifies the number of such telecasts made by each of the superstations.

Third, Commissioner Daub had asked whether gender might affect the emphasis that cable executives place on sports. Tr. 1818; see also Tr. 1820 (remarks of Commissioner Argetsinger). The best information we have on this point is that reflected in the Bortz study of cable operator program valuations. Attached as Sports Exhibit 37C is a table which shows the percentage allocations for each distant signal program category, broken down by gender of the respondent.

Fourth, Commissioner Daub and Mr. Cassler had requested a textbook definition of confidence intervals.

Tr. 1990. Attached as Sports Exhibit 37D are pages 307-08 from Babbie, Survey Research Methods, which explains the concept of confidence intervals.

Fifth, Commissioner Argetsinger asked how many signals were carried, on average, by the 187 cable systems that responded to the Bortz survey. Tr. 849. Attached as Sports Exhibit 37E is a table which identifies the number of such cable systems carrying 1, 2, 3, 4, etc. distant signals. That table also shows that the mean average number of distant signal carried was 3.35.

Finally, you had requested the amount of royalty fees generated by the Boston Celtics flagship station WLVI in 1989. Tr. 2544-45. For the second accounting period in 1989, a total of 24 Form 3 cable systems paid $255,453 to carry WLVI as a distant signal. We do not have data for the first accounting period of 1989.

Please let me know if you need any additional information.

Sincerely,

Robert Alan Garrett

cc: Robert Cassler
Arthur Scheiner
John I. Stewart, Jr.
Thomas P. Olson
Clifford M. Harrington
Richard M. Campanelli
John H. Midlen, Jr.

SPORTS EXHIBIT 37A

1989 NBA TELECASTS ON WTBS

1988-89 Season

1/03	Boston @ New York
1/06	Atlanta @ Detroit
1/10	L.A. Lakers @ Sacramento
1/13	Denver @ Chicago
1/17	Milwaukee @ Atlanta
1/20	Indiana @ Detroit
1/20	Dallas @ L.A. Lakers
1/24	Seattle @ Portland
1/27	San Antonio @ Dallas
1/31	Detroit @ Chicago
2/03	Detroit @ Philadelphia
2/07	Cleveland @ Milwaukee
2/14	Boston @ Houston
2/14	Detroit @ L.A. Lakers
2/17	Cleveland @ Atlanta
2/21	Boston @ Seattle
2/24	Utah @ Denver
2/28	Detroit @ Cleveland
2/28	Phoenix @ Portland
3/03	Dallas @ Boston
3/03	Philadelphia @ Portland
3/07	L.A. Lakers @ Atlanta
3/15	Portland @ Utah
3/15	Dallas @ Golden State
3/21	Detroit @ Atlanta
3/21	Chicago @ L.A. Lakers
3/28	Seattle @ Houston
3/31	Cleveland @ Chicago
4/07	Boston @ Portland
4/11	Philadelphia @ Cleveland
4/13	Boston @ Atlanta
4/14	Detroit @ New York
4/21	Cleveland @ Atlanta
4/21	Houston @ Phoenix

FIRST ROUND

4/27	Philadelphia @ New York
4/27	Portland @ L.A. Lakers
4/28	Boston @ Detroit
4/28	Denver @ Phoenix
4/29	Milwaukee @ Atlanta

CONFERENCE SEMIFINALS

5/02	Detroit @ Boston
5/02	Utah @ Golden State
5/03	Cleveland @ Chicago
5/03	L.A. Lakers @ Portland
5/05	Cleveland @ Chicago
5/09	Chicago @ New York
5/09	Golden State @ Phoenix
5/10	Milwaukee @ Detroit
5/10	Seattle @ L.A. Lakers
5/11	Chicago @ New York
5/11	Phoenix @ Golden State
5/12	Milwaukee @ Detroit
5/12	L.A. Lakers @ Seattle
5/15	Detroit @ Milwaukee
5/16	Chicago @ New York
5/16	Golden State @ Phoenix
5/19	New York @ Chicago

CONFERENCE FINALS

5/23	Chicago @ Detroit
5/23	Phoenix @ L.A. Lakers
5/26	L.A. Lakers @ Phoenix
5/31	Chicago @ Detroit

1989-90 SEASON

11/12	Atlanta @ Milwaukee
11/25	Boston @ Atlanta
11/29	Atlanta @ Washington
12/02	Philadelphia @ Atlanta
12/21	Atlanta @ Miami
12/27	Atlanta @ Dallas

SPORTS EXIBIT 37B

PROFESSIONAL SPORTS GAMES
TELECAST ON SUPERSTATIONS - 1989

1. WTBS (Atlanta, GA)

   125 MLB
   66 NBA

2. WGN (Chicago, IL)

   150 MLB
   7 NBA

3. WWOR (New York, NY)

   74 MLB
   13 NBA

4. WPIX (New York, NY)

   76 MLB

5. WSBK (Boston, MA)

   73 MLB
   45 NHL

6. KTVT (Dallas, TX)

   66 MLB
   22 NBA

7. KTLA (Los Angeles, CA)

   60 MLB
   19 NBA

1989 BORTZ STUDY OF CABLE OPERATORS PROGRAM VALUATIONS (BY GENDER OF RESPONDENT)

Category	Question 4a Percent Allocation* Men (n = 126)	Women (n = 50)
Live Professional and College Sports	33.5%	34.6%
Movies	30.9	33.2
Syndicated Shows and Series	17.8	14.9
News and Public Affairs	11.9	12.4
Devotional/Religious Programming	4.2	3.7
PBS, Educational and Other Public Television	1.5	0.9
Canadian	0.2	0.4
TOTAL	100.0%	100.1%

* In 11 instances, the name of the respondent did not clearly indicate gender, resulting in a tabulation based on 176 questionnaires. Responses are unweighted to isolate the influence of gender from the amount of royalty payment.

SPORTS EXHIBIT 37D

Survey Research Methods

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most instances, the ultimate purpose is to make assertions about some larger population. Frequently, then, the researcher will wish to interpret his univariate and multivariate sample findings as the basis for *inferences* about the population from which the sample was selected.

This section will examine the statistics available to the researcher for making such inferences and the logical bases for them. We shall begin with univariate data and move to multivariate.

Univariate Inferences

The opening sections of Chapter 13 dealt with methods for presenting univariate data. Each summary measure was intended as a method for describing the sample studied. Now we have come to the point of using those measures to make broader assertions about the population. This section is addressed to two univariate measures: percentages and means.

If 50 percent of a survey sample say they have had a cold during the past year, the researcher's best estimate of the similar proportion of the total population from which the sample was drawn is 50 percent. (This assumes a simple random sample, of course.) It is rather unlikely, nonetheless, that *precisely* 50 percent of the population has had a cold during the year, however. If a rigorous sampling design for random selection has been followed, however, the researcher will be in a position to estimate the expected range of error when the sample finding is applied to the population.

Chapter 5 on sampling theory covered the procedures for making such estimates, so they will be only reviewed here. In the case of a percentage, the quantity $\sqrt{pq/n}$, where p is a percentage and q equals $1-p$, and where n is the sample size, is called the *standard error*. As noted in Chapter 5, this quantity is very important in the estimation of sampling error. Since the researcher may be 68 percent "confident" that the population figure falls within plus or minus one standard error of the sample figure, he may be 95 percent "confident" that it falls within plus or minus two standard errors, and 99.9 percent "confident" that it falls within plus or minus three standard errors.

Any statement of sampling error, then, must contain two essential components: the *confidence level* (for example, 95 percent) and the *confidence interval* (for example ±5 percent). If 50 percent of a sample of 1,600 respondents say they have had a cold during the year, the researcher might say he is 95 percent confident that the population figure is between 47.5 percent and 52.5 percent.

Recognize in this example that we have moved beyond simply describing the survey sample into the realm of making estimates (inferences) about the larger population. In doing this, the researcher must be wary of several assumptions.

First, the sample must be drawn from the population about which infer-

ences are being made. A sample taken from a telephone directory cannot legitimately be the basis for statistical inferences to the population of a city.

Second, the inferential statistics assume simple random sampling, which is virtually never the case in sample surveys. The statistics assume sampling with replacement, which is almost never done; but this is probably not a serious problem. Although systematic sampling is used more frequently than random sampling, this probably presents no serious problem if done correctly. Stratified sampling, since it improves representativeness, clearly presents no problem. Cluster sampling does present a problem, however, as the estimates of sampling error may be too small. Quite clearly, street-corner sampling does not warrant the use of inferential statistics. Also assumed is a 100 percent completion rate. This problem increases in seriousness as the completion rate decreases.

Third, the inferential statistics are addressed to sampling error only; they do not take account of *nonsampling* errors. Thus, it might be quite correct to state that between 47.5 percent and 52.2 percent of the population (95 percent confidence) would *say* that they had had a cold during the previous year, but their reports might be essentially worthless. The researcher could confidently guess the proportion of the population who would report colds, but not the proportion who had had one. Whereas nonsampling errors are probably larger than sampling errors in a respectable sample design, the researcher should be especially cautious in generalizing from his sample findings to the population.

Tests of Statistical Significance

What constitutes a *significant* association between two variables? This question, like many, has no reasonable answer. Nevertheless, it is frequently answered in an unreasonable manner.

There is no scientific answer to the question of whether a given association between two variables is "significant," strong, important, interesting, or worth reporting. Perhaps the ultimate test of significance rests with the researcher's ability to persuade his audience (present and future) of the association's significance.

At the same time, there is a body of inferential statistics that may assist the researcher in this regard: the body of *parametric tests of significance*. As the name suggests, "parametric" statistics are those that make certain assumptions about the parameters describing the population from which the sample is selected.

Although tests of significance are widely reported in survey literature, the logic underlying them is rather subtle and is often misunderstood. Tests of significance are based on the same sampling logic that has been discussed elsewhere in this book. To understand the logic of these tests, let's return for a moment to the concept of sampling error in regard to univariate data.

SPORTS EXHIBIT 37E

NUMBER OF DISTANT SIGNALS
CARRIED BY CABLE SYSTEMS
RESPONDING TO 1989 BORTZ SURVEY

Number of Distant Signals	Number of Cable Systems (n = 187)	Percentage of Total Cable Systems
0	0	0%
1	12	6.4%
2	68	36.4%
3	42	22.5%
4	26	13.9%
5	17	9.1%
6	9	4.8%
7	5	2.7%
8	2	1.1%
9	3	1.6%
10	2	1.1%
11	1	0.5%
		100.1%

Mean Avg = 3.35 Distant Signals Per Cable System Respondent

Syndex Fund even though cable systems did pay in to the Syndex Fund to carry Public Television Stations under some circumstances. 57 Fed. Reg. at 15,304 (1992).

Similarly, Public Television Programmers do not participate in the 3.75 Fund, but only because the statute specifically states that "no adjustment in royalty rates shall be made...with respect to...carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976...". 17 U.S.C. 801(b)(2)(B). Carriage of an unlimited number of Public Television Stations was permitted by the FCC regulations before the modification, so Public Television Programmers were outside the scope of this specific legislative language. The exclusion of Public Television Programmers from both these special anomalous funds was for regulatory and statutory reasons having no relation to pay-in/pay-out. *NAB v. CRT,* 809 F.2d 178 n.7 (2d Cir. 1986).

Finally, Certain Copyright Owners acknowledge:

> Division of Section 119 royalties into three separate funds only tells the Tribunal the total amount paid for each type of *station.* Royalty distribution is based, however, on the value of the different kinds of *works* on available on stations. Comments Brief at 11.

This is exactly the Networks' point. The appropriate comparison, consistent with all CRT precedent, is the relative value of the programming; what station the programming is on is irrelevant.[11] Certain Copyright Owners seek to inhibit the

[11] In fact, if taken seriously, the Certain Copyright Owners' arguments would militate creation not of three funds, but 18 separate funds, just because there are 18 stations delivered to home dish owners, each of which could have its pay-in separately calculated.